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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: J.D. Martin et al.

Attorney Docket No.: KCOS116809

Application No.: 09/766,549

Group Art Unit: 3618

Filed: January 18, 2001

Examiner: J.J. Restifo

Title: ATHLETIC BOOT WITH INTERFACE ADJUSTMENT MECHANISM

RESPONSE

TO THE COMMISSIONER FOR PATENTS:

REMARKS

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GROUP 3600

Applicants respectfully request reconsideration of the above-identified application. Claims 1-24, 26, and 28-36 remain pending in the present application.

Claims 1-24, 26, and 28-36 were provisionally rejected in an Office Action dated February 28, 2003 (hereinafter "Office Action") under the judiciously created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-16 of co-pending Application No. 09/757,827, to Aiken in view of U.S. Patent No. 5,704,139, to Okajima (hereinafter "Okajima"). Claims 1-3, 5-18, 20-24, 26, and 28-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. US 2002/0089129 A1, to Aiken in view of Okajima. Claims 4 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. US 2002/0089129 A1 and Okajima in further view of U.S. Patent No. 5,367,793 to Deacon et al. (hereinafter "Deacon").

Claim Rejections Under 35 U.S.C. § 103(a)

Effective November 29, 1999, subject matter that was cited as prior art under 35 U.S.C. § 102(e) in combination with 35 U.S.C. § 103 is now disqualified as prior art against the claimed invention, if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." M.P.E.P. § 706.02(l)(1) (8th Ed., Aug. 2001). In that regard, the present application and U.S.

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